

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

7 WEST 21 LI LLC,

Plaintiff,

-V-

CLEMENT MOSSERI,

Defendant.

23 Civ. 9448 (JPC)

ORDER

JOHN P. CRONAN, United States District Judge:

On October 27, 2023, Defendant filed a notice of removal, removing this case from New York City Civil Court, County of New York, to this Court. Dkt. 1. Approximately one year earlier, on November 4, 2022, the Court remanded an action between these same parties to New York City Civil Court for lack of subject matter jurisdiction following Defendant's removal of that case on January 13, 2020. *See 7 W. 21 LI LLC v. Mosseri*, No. 20 Civ. 279 (JPC), 2022 WL 16722105 (S.D.N.Y. Nov. 4, 2022), *appeal dismissed* (2d Cir. Jan. 19, 2023).

On November 2, 2023, the Court issued an Order directing the parties to file letter briefs addressing “whether this is the same action that the Court remanded on November 4, 2022; if so, addressing whether any relevant circumstances have changed since that remand; and presenting their views as to whether the Court has subject matter jurisdiction over this action.” Dkt. 3. Plaintiff filed a letter on November 7, 2023, taking the position that “this is the same action that this Court remanded on November [4], 2022,” “[n]o relevant circumstances have changed, other than the House Court’s issuance of a final judgment of possession,” and “this Court lacks subject matter jurisdiction over this matter.” Dkt. 7. Instead of addressing the issues raised in the Court’s November 2, 2023, Order, however, Defendant filed a notice of appeal on November 14, 2023.

Dkt. 8. The Second Circuit dismissed that appeal on July 10, 2024. Dkt. 11. On November 11, 2024, Plaintiff filed a letter reiterating its position that subject matter jurisdiction is lacking. Dkt. 12.

After having reviewed the parties' filings in this matter, the Court concludes that this action is identical to the one that the Court previously remanded for lack of subject matter jurisdiction and that no changes in circumstances support an exercise of subject matter jurisdiction over this case. The Court therefore orders that this proceeding, Index No. L&T 53774/2019, be remanded to New York City Civil Court, County of New York, Housing Part. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal of this Opinion and Order would not be taken in good faith, and therefore denies *in forma pauperis* status for purposes of appeal.

If Plaintiff still wishes to press its request for fees and costs pursuant to 28 U.S.C. § 1447(c), *see* Dkt. 7 at 6, it shall file a letter brief in support of that request and any supporting documents on or before January 28, 2025.

SO ORDERED.

Dated: January 8, 2025
New York, New York

A handwritten signature in black ink, appearing to read "John P. Cronan", written over a horizontal line.

JOHN P. CRONAN
United States District Judge